

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**DENIS RIVERA**

**Criminal No. 02-CR-376**

**ORDER**

This matter comes before the Court on Defendant Denis Rivera's *pro se* motion for an order to show cause (Dks. 512, 513). The government has filed a response to defendant's motion and the matter is thus ripe for disposition. Oral argument is dispensed with as the facts and legal contentions are adequately set forth in the existing record and oral argument would not aid the decisional process.

Defendant was a member of the criminal gang Mara Salvatrucha or "MS-13," who along with five other MS-13 members, was indicted for conspiring to murder and murdering twenty-year-old Joaquin Diaz. After a jury trial, defendant was convicted of both counts and was sentenced to life in prison. *See id.* Defendant appealed and his conviction and sentence were affirmed on appeal. *See United States v. Rivera*, 412 F.3d 562 (4th Cir. 2005), *cert. denied* 126 S.Ct. 670 (2005). Defendant later sought collateral review of his conviction and his motion to vacate pursuant to 28 U.S.C. § 2255 was also denied. *See Order Denying Motion to Vacate*, dated July 11, 2007 (Dkt. 433). The Fourth Circuit denied a certificate of appealability with respect to that Order. *See United States v. Rivera*, 266 F. App'x 238 (4th Cir. 2008).

Defendant has now filed what he styles as a "Notice for Writ of Mandamus." Dkt. 512, 513. Defendant seeks "proof that they certified the charges" pursuant to which defendant was convicted. *Id.* at 1. Defendant also asserts that he is wrongfully confined pursuant to the "Bill of

Rights to the Continental Constitution, UCC 3-419, and Title 15 U.S.C.” which are asserted to encompass his right to be confined under charges that were certified. *Id.* at 2. The government responded to defendant’s motion and provided a copy of the Superseding Indictment and the Judgment in a Criminal Case certified by the Clerk of the Court. *See* Response (Dkt. 515); Exhs. 1 and 2 (Dkts. 515-1, 515-2).

Because defendant has received the certified charges, defendant’s so-called Notice must be denied as moot. Moreover, to the extent that defendant is attempting to raise any challenge to his conviction pursuant to 28 U.S.C. § 2255 it would be a second or successive motion and defendant must obtain authorization from the Fourth Circuit. *See* 28 U.S.C. § 2244(b)(3)(A) (“Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.”). Finally, it is unclear why defendant referenced the Uniform Commercial Code (“UCC”) in his Notice, but district courts recognize that individuals often rely on the UCC under “the discredited ‘Sovereign Citizen’ theory to attempt to avoid jurisdiction over them and their criminal charges.” *Wright v. United States*, 2020 WL 1674557 (W.D.N.C. Apr. 6, 2020). District judges within this District have repeatedly advised parties that sovereign citizen arguments have no basis in fact or law. *See United States v. Shapat Ahdawan Nabaya*, 2017 WL 1424802 (E.D. Va. Apr. 19, 2017).

Accordingly,

It is hereby **ORDERED** that defendant’s Notice for Writ of Mandamus and for Order to Show Cause (Dkt. 512, 513) is **DENIED** as **MOOT** because the government has produced certified copies of the Indictment and the Judgment in a Criminal Case. To the extent that

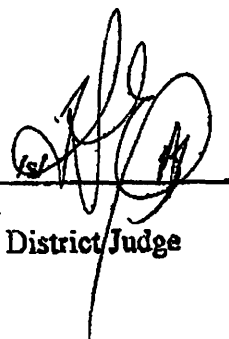
defendant seeks to challenge his conviction pursuant to 28 U.S.C. § 2255, his motion is

**DENIED** as a second or successive petition.

If defendant wishes to appeal this decision, he must file a written Notice of Appeal with the Clerk of this court within fourteen (14) days of receipt of this Order. Failure to file a timely Notice of Appeal waives the right to appeal.

The Clerk of Court is directed to send a copy of this Order to all counsel of record and to defendant.

Alexandria, VA  
March 28, 2023

  
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T. S. Ellis, III  
United States District Judge